

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

UNITED STATES, *et al.*,

Plaintiffs,

v.

GOOGLE LLC,

Defendant.

**Civil Action No.
1:23-cv-00108-LMB-JFA**

**DEFENDANT GOOGLE LLC’S NOTICE OF SUPPLEMENTAL AUTHORITY IN
SUPPORT OF ITS MOTION TO DISMISS**

Defendant Google LLC (“Google”) submits this notice to advise the Court of the following recent supplemental authority in support of Google’s pending Motion to Dismiss, ECF Nos. 72-73: *New York v. Meta Platforms, Inc.*, No. 1:20-cv-03589, slip op. (D.C. Cir. Apr. 27, 2023). This authority is relevant to Google’s argument that its DoubleClick and Admeld acquisitions should not be considered part of a ““course of conduct”” alongside later allegedly anticompetitive acts. *Compare* Reply Br. at 13, *with Meta Platforms*, slip op. at 23 n.13 (rejecting “the States’ argument that the Instagram and WhatsApp acquisitions . . . are part of a ‘course of conduct’” for the reasons stated by the district court (citing *New York v. Facebook Inc.*, 549 F. Supp. 3d 6, 44-48 (D.D.C. 2021)). This authority is also relevant to Google’s argument that its alleged restriction of Google Ads demand to Google’s products should be analyzed as a refusal to deal. *Compare* Reply Br. at 16-17, *with Meta Platforms*, slip op. at 30 (rejecting challenge to a policy restricting competitor access to Facebook’s own platform, noting that it presented “nothing like” the situation in *Lorain Journal*) and 32-34 (“The States’ basic

allegation – that Facebook ‘cut off’ competitors from “access to . . . [Facebook’s] immensely valuable network,” thus amounts to a ‘claim based upon the defendant’s refusal to cooperate with its competitor[s].’” (citation omitted)).

This decision is attached hereto as Exhibit A.

Dated: April 27, 2023

Respectfully submitted,

/s/ Eric Mahr

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Counsel for Google LLC

CERTIFICATE OF SERVICE

I hereby certify that on April 27, 2023, I electronically filed the foregoing Notice of Supplemental Authority with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing to all counsel of record.

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